

DATE

Dr. Craig Troxclair  
723 Clouet St.  
New Orleans, LA 70117

**Re: Ethics Board Docket No. 2015-1248**

Dear Dr. Troxclair:

The Louisiana Board of Ethics, at its January 15, 2016 meeting, considered your request for an advisory opinion regarding whether you, as a licensed physician specializing in Psychiatry, can provide services as a physician advisor for both the Department of Health and Hospitals' (DHH) Office of Behavioral Health (OBH) and AmeriHealth Caritas. The following information was provided for consideration in connection with your request:

DHH previously contracted with Magellan Behavioral Health (Magellan) to manage mental health services for Medicaid patients as well as indigent patients in Louisiana. Since Magellan's contract terminated on November 30, 2015, Medicaid patients have been divided among the five Bayou Health plans, while OBH is managing services for indigent patients. As a physician advisor for Magellan, prior to the termination of its contract, you made determinations regarding the appropriate level of care for identified patients. Your determinations were based on record reviews and peer-to-peer reviews with the facility proposing treatment for the patient.

You are currently employed, on a part-time basis, as a physician advisor for AmeriHealth Caritas, one of the five Bayou Health plans managing services for Medicaid patients. Additionally, you would provide the same services on behalf of OBH, as an independent contractor, for indigent patients assigned to you by OBH. There would be no overlap in which patients would be serviced by both AmeriHealth Caritas and OBH at the same time. However, a patient may, at one time or another, gain or lose Medicaid benefits and, therefore, move between the organizations. Nevertheless, as a physician advisor, you have no role in determining whether a patient is eligible for Medicaid benefits.

The Board concluded, and instructed me to inform you, that the Code of Governmental Ethics would not prohibit you from providing services as a physician advisor for both OBH and AmeriHealth Caritas. La. R.S. 42:1111C(1)(a) prohibits a public servant from receiving any thing of economic value for any service, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of his agency and in

which he has participated. When determining the agency for a contractor who is deemed a public employee for purposes of the Code, the Board has defined it by the scope of that person's contract. Services for indigent patients are exclusively managed by OBH, while services for Medicaid patients are exclusively managed by the Bayou Health plans, including AmeriHealth Caritas. Furthermore, you are not involved in determining whether a patient is eligible for Medicaid benefits. Therefore, it would not present a violation of the Code if you provide services as a physician advisor for both OBH and AmeriHealth Caritas.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Governmental Ethics. The Board issues no opinion as to past conduct or as to laws other than the Code of Governmental Ethics. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,

**LOUISIANA BOARD OF ETHICS**

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Vivian Haley Williams  
For the Board

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THIS IS NOT AN OPINION OF THE BOARD OF  
ETHICS